

REMARKS

Replacement drawing sheets are submitted showing the changes suggested by the Examiner to Figs. 1 and 7.

The Specification is amended to address the informalities identified by the Examiner.

Claims 7 is amended to address the Examiner's objection and to incorporate the subject matter of claim 8, which is cancelled. Claims 10, 12, 14, 16, 18, and 20 are cancelled because the above amendment makes them redundant.

The claims are also amended to address the rejections under § 112, second paragraph.

The present amendment adds no new matter to the application.

The Rejections

Claims 8-20 stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite.

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ohmi et al. (EP 0 622 667 A1) [hereinafter "Ohmi '667"] in view of Hishikari et al. (JP 63-138220) [hereinafter "Hishikari"].

Claims 9-18 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ohmi '667 in view of Hishikari, and further in view of Nelson (U.S. Patent 3,180,404).

Claims 19 and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ohmi '667 in view of Hishikari, and further in view of Asuma et al. (U.S. Patent 4,369,838) [hereinafter "Asuma"].

Claims 7 and 8 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-12 of co-pending Application No. 09/905,209 (now U.S. Patent 6,919,056).

In view of the present amendment, Applicants respectfully traverse the present rejections and request reconsideration and allowance of the remaining claims for the following reasons.

Applicant's Arguments

Rejections Under 35 U.S.C. § 112

Regarding the rejections of claims 8-12, 19, and 20 under 35 U.S.C. § 112, Applicants believe that the present amendment fully addresses the rejections. Regarding the rejections of claims 13-18 under § 112, Applicants believe that the terms "axially symmetrical" and

“centrally symmetrical” are clear from the specification. Namely, “axial symmetry” is described in the specification as “a concentric arrangement of heat dissipation fins” (p. 17, lines 26-27). “Centrally symmetrical” is described in the specification on page 13, lines 8-12 with regard to Fig. 9. For these reasons, Applicants respectfully traverse all of the rejections under § 112.

Rejections Under 35 U.S.C. § 103

Ohmi '667 Is Not Available as Prior Art under § 103

Applicants note that the present application and Ohmi '667 were commonly owned by, or subject to an obligation of assignment to, Fujikin, Inc. and Tadahiro Ohmi at the time the invention was made (see Assignment in present case with a recordation date of July 13, 2001, and section (71) of Ohmi '667). Therefore, in accordance with 35 U.S.C. § 103(c) and MPEP 706.02(l)(2), Applicants have provided sufficient evidence to establish that, because both the present application and Ohmi '667 were commonly owned at the time the invention was made, Ohmi '667 cannot be used as prior art against the present claims under 35 U.S.C. § 103.

Even if Ohmi '667 Were Available, No Prima Facie Obviousness Exists

Further regarding the rejection of claims 7 and 8 under 35 U.S.C. § 103(a) as unpatentable over Ohmi '667 in view of Hishikari, even if Ohmi '667 were available to combine as prior art, which it is not, there is no *prima facie* case of obviousness. As admitted by the Examiner (Office Action dated June 30, 2005, page 5, lines 9-13), Ohmi '667 does not teach a “fin base plates attached to the outside walls of the first and second components” with “a plurality of fins disposed on the fin base plates” as disclosed in claim 7 as amended. Also as admitted by the Examiner (Office Action dated June 30, 2005, page 5, lines 9-13), Ohmi '667 fails to teach “a heater, having an outside, disposed on the outside wall of the second component; and a heater pressing plate, having an outside, disposed on the outside of the heater, wherein the fin base plate is attached to the outside of the heater pressing plate” as disclosed in claim 7 as amended. Hishikari teaches an electronic cooling element (5) to cool a soaking plate (2) through a heater (4), held together with a holding member (6) having a radiation fin (7) on the back. The fin (7) in Hishikari acts to increase the cooling performance of the electronic cooling element (5) which is a Peltier device, and does not serve to cool a reactor chamber.

The Examiner has not identified any motivation to combine the cited references. The combination of Ohmi ‘667 with Hishikari is not a “duplication of part[s]” as described by the Examiner (Office Action dated June 30, 2005, page 6, line 8), and rings of impermissible hindsight. See W.L. Gore & Assocs., Inc. v. Garlock, Inc. 220 U.S.P.Q. 303, 312 (Fed. Cir. 1983) (“claims were used as a frame, and individual, naked parts of the separate prior art references were employed as a mosaic”).

Where claimed subject matter has been rejected as obvious in view of a combination of prior art references, a proper analysis under § 103 requires that (1) the prior art must suggest to those of ordinary skill in the art that they should perform the invention; and (2) the prior art must have revealed a reasonable expectation of success in performing the invention. In re Vaeck, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991). Both the suggestion and the reasonable expectation of success must be founded in the prior art, not in the applicant's disclosure. Noelle v. Lederman, 355 F.3d 1343, 1352 (Fed. Cir. 2004). The relied-upon references do not meet this burden: the references do not suggest the proposed combination and the references do not suggest that such a combination would work. In particular, one of ordinary skill in the art would not expect that the fin of Hishikari could substitute for the activateable cooling unit taught by Ohmi ‘667. The Examiner has cited that Ohmi ‘667 teaches “a cooling unit will be activated,” but a fin is a passive radiator and so cannot be activated. One of ordinary skill in the art would neither (1) be inclined to substitute a fin for an activateable cooler; nor (2) expect that the device would operate properly with such a substitution.

Because the art rejections all rely on the combination of Ohmi ‘667 with Hishikari under 35 U.S.C. § 103, and (1) under 35 U.S.C. § 103(c) Ohmi ‘667 is not available as prior and (2) there is no motivation to combine these references, Applicants respectfully traverse the rejections under § 103 and request reconsideration and withdrawal of same.

Rejection Under Judicially-Created Doctrine of Obviousness-Type Double Patenting

Courts have held that double patenting rejections require an analysis of the claims and not the disclosure of the patents whose claims are relied upon to demonstrate double patenting. General Foods Corp. v. Studiengesellschaft Kohle mbH, 23 U.S.P.Q.2d 1839,

1846 (Fed. Cir. 1992). In the present case, the Examiner has not established a prima facie case of obviousness-type double patenting because the Examiner has not compared the claims of Application No. 09/905,209 (now U.S. Patent 6,919,056) to the claims of the present application. To facilitate prosecution, Applicants provide such a comparison in Table 1 below, wherein *only the most prominent differences* between the claims are pointed out. Table 1 compares claim 1 of cited Application No. 09/905,209 (now U.S. Patent 6,919,056) to the closest claim in the present application, namely claim 7.

Table 1

Appln. No. 09/905,209 (Pat. 6,919,056)	The present Application
1. A reactor for generating moisture, comprising: a reactor shell with an inlet side and an outlet side, said reactor shell comprising: a reactor structural component on the inlet side; and [Note: does not recite an outside wall] a reactor structural component on the outlet side; [Note: does not recite an outside wall] wherein an interior space is formed with said reactor structural component on the inlet side and said reactor structural component on the outlet side disposed opposite each other and joined together by welding;	7. A reactor for generating moisture, having an inlet side and an outlet side, comprising: a first reactor structural component on the inlet side of the reactor having an outside wall a second reactor structural component on the outlet side of the reactor having an outside wall wherein the first and second components are mated to form a reactor shell having an interior space; [Note: does not recite joined together by welding or disposed opposite each other]
a gas feed port engaged with said reactor structural component on the inlet side;	a material gas supply passage provided in the first reactor structural component disposed to supply material gases into the interior space; a material gas supply joint connected to the material gas supply passage;
a moisture gas take-out port engaged with said reactor structural component on the outlet side;	a moisture gas outlet passage provided in the second reactor structural component to lead out moisture from the interior space; a moisture gas take-out joint connected to the moisture gas outlet passage;
NOT PRESENT	fin base plates attached to the outside walls of the first and second components;
NOT PRESENT	a plurality of fins disposed on the fin base plates;
NOT PRESENT	a heater, having an outside, disposed on the outside wall of the second component; and

Appn. No. 09/905,209 (Pat. 6,919,056)	The present Application
NOT PRESENT	a heater pressing plate, having an outside, disposed on the outside of the heater, wherein the fin base plate is attached to the outside of the heater pressing plate.
an inlet reflector disposed on the inside wall of said reactor structural component on the inlet side, positioned opposite to said gas feed port in the interior space of the reactor;	NOT PRESENT
an outlet reflector disposed on the inside wall of the said reactor structural component on the outlet side, positioned opposite to said moisture gas take-out port in the interior space of the said reactor; and	NOT PRESENT
a platinum coat catalyst layer formed on the inside wall of said reactor structural component on the outlet side;	NOT PRESENT
wherein hydrogen and oxygen are fed into the interior space of said reactor through said gas feed port and brought into contact with said platinum coat catalyst layer to activate the reactivity of the hydrogen and oxygen, thereby reacting hydrogen and oxygen into water in a non-combustion state; wherein	NOT PRESENT
a round recession with a flat bottom is formed on inside walls of said reactor structural component on the inlet side and said reactor structural component on the outlet side; wherein there is a tapered portion formed at peripheral edge portions of said inlet reflector facing the inside wall of said reactor structural component on the inlet side and said outlet reflector facing the inside wall of said reactor structural component on the outlet side; and wherein a gap is formed between said inlet reflector and the inside wall of said reactor structural component on the inlet side, and a gap is formed between said outlet reflector and the inside wall of said reactor structural component on the outlet side, and	NOT PRESENT
wherein there is no filter in the interior space.	NOT PRESENT

Because there are multiple differences and mutually exclusive and missing elements between the claims of the present application and the claims of Application No. 09/905,209 (now U.S. Patent 6,919,056), no prima facie case of obviousness-type double patenting has been shown. Id. Clearly, the Examiner has not shown that the same invention has been claimed twice. Therefore, we believe that the Examiner's present obviousness-type double patenting rejection is untenable.

Conclusion

For all of the above reasons, claims 7, 9, 11, 13, 15, 17, and 19 are now in condition for allowance. Therefore, Applicants respectfully request reconsideration of the application and withdrawal of the rejections, and a prompt notice of allowance is earnestly solicited.

Questions are welcomed by the below signed attorney for the Applicants.

Respectfully submitted,

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